

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**TELESTER AMEENA POWELL,
APPELLANT**

vs.

**THE CITY OF KANSAS CITY, MISSOURI,
RESPONDENT**

DOCKET NUMBER WD78138

DATE: OCTOBER 6, 2015

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable Robert M. Schieber, Judge

Appellate Judges:

Division One: Cynthia L. Martin, P.J., Joseph M. Ellis, J. and James E. Welsh, J.

Attorneys:

Telester Ameena Powell, Appellant Pro-se

Chad Stewart, for Respondents

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

TELESTER AMEENA POWELL, APPELLANT

v.

THE CITY OF KANSAS CITY, MISSOURI, ET AL., RESPONDENTS

WD78138

Jackson County, Missouri

Before Division One Judges: Cynthia L. Martin, P.J., Joseph M. Ellis, J. and James E. Welsh, J.

Telester Powell appeals from a judgment entered in the Circuit Court of Jackson County granting summary judgment in favor of the City of Kansas City ("the City") in an action Appellant filed against the City for alleged Sunshine Law violations.

AFFIRMED.

Division One holds:

- (1) Under § 514.040.1, the circuit court is vested with considerable discretion to order a plaintiff found to be a poor person to pay any portion of the costs and expenses it finds the plaintiff is able to pay. Accordingly, though the court found that Appellant was a poor person and waived "the required advance deposit for costs," it did not err as a matter of law in later ordering Appellant to pay court costs.
- (2) The circuit court did not err in finding that the City had no obligation under § 523.265 to consider alternative sites for the project suggested by Appellant because the provisions of that section do not apply to takings of an entire parcel of land and because the alternatives proposed by Appellant were not located "on the same parcel of the landowner's property."
- (3) Appellant's document request related only to "engineering reports, surveys and other documents associated with [the City's] review of other, viable sites" for the project and had nothing to do with the issuance of bonds or other indebtedness of a governmental body. Accordingly, that exception to the one-year statute of limitations contained in § 610.027.5 is inapplicable.
- (4) The plain language of § 610.027.5 provides that an action asserting a violation of the Sunshine Law must be brought within one year of the date it becomes ascertainable and that under no circumstances may such an action be brought more than two years after the violation actually occurred, even if the violation never becomes ascertainable. In this case, the one year limitations provisions clearly applied because, based upon the undisputed facts, the alleged violation was readily ascertainable by November 8, 2011.

- (5) The filing of a Sunshine Law violation complaint with the Missouri Attorney General does not serve to toll the statute of limitations in § 610.027.5.
- (6) By failing to reference the order denying Appellant's motion for new trial in her Notice of Appeal or to attach that order to her notice, Appellant waived her claim related thereto.

Opinion by Joseph M. Ellis, Judge

Date: OCTOBER 6, 2015

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